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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Claudius Murray,

10 Plaintiff,

11 v.

12 State of Arizona, et al.,

13 Defendants.
14

No. CV-22-00360-TUC-RM

ORDER

15 Pending before the Court is Plaintiff Claudius Murray’s Motion for Leave to File
16 Late Notice of Appeal. (Doc. 42.)

17 **I. Background**

18 On March 14, 2023, the Court consolidated *Easton Murray v. State of Arizona, et*
19 *al.*, CV-22-360-TUC-RM, with *Claudius Murray v. State of Arizona, et al.*, CV 22-361-
20 TUC-RM. (Doc. 33.) The Court’s Order consolidating the cases states: “each Plaintiff
21 may appear on his own behalf but not on behalf of the other,” “each Plaintiff will be
22 required to sign and submit his own motions and notices related to his claims,” “each
23 Plaintiff will be required to individually sign any motion or notice filed on behalf of both
24 Plaintiffs,” and “[a]ll future filings shall be made in the consolidated matter under case
25 number CV-22-00360-RM.” (*Id.* at 2.)

26 On May 15, 2023, the Court granted Defendants’ Motions to Dismiss (Doc. 37)
27 and the Clerk of Court entered judgment (Doc. 38). Plaintiff Easton Murray filed a
28 Notice of Appeal on May 16, 2023. (Doc. 39.) The Notice of Appeal states: “COMES

1 NOW EASTON MURRAY, hereinafter Plaintiff, to give notice that Plaintiff appeals to
 2 the United States Court of Appeals for the Ninth Circuit from the final Order of dismissal
 3 entered on 15 May 2023.” (*Id.* at 1.) The Notice is signed only by Easton Murray. (*Id.*)

4 II. Discussion

5 Plaintiff Claudius Murray filed the pending Motion for Leave to File Late Notice
 6 of Appeal on September 6, 2023. (Doc. 42.) Plaintiff moves pursuant to Rule
 7 4(a)(5)(A)(ii) of the Federal Rules of Appellate Procedure to file a late Notice of Appeal,
 8 arguing that his failure to timely file a Notice of Appeal was due to inadvertence,
 9 mistake, and excusable neglect. (*Id.* at 1.) Plaintiff avers that he believed the May 16,
 10 2023 Notice of Appeal filed by Easton Murray “had the lawful effect of giving notice on
 11 behalf of each consolidated Plaintiff of the intention to appeal the cause.” (*Id.* at 2.)

12 Plaintiff’s deadline for filing a notice of appeal expired on June 14, 2023. *See*
 13 Fed. R. App. P. 4(a)(1)(A). Pursuant to Rule 4(a)(5)(A) of the Federal Rules of Appellate
 14 Procedure, the Court may extend a party’s deadline for filing a notice of appeal if (1) the
 15 “party so moves no later than 30 days after” the time for filing a notice of appeal expires,
 16 and (2) the “party shows excusable neglect or good cause.” Plaintiff had until July 14,
 17 2023, to move for an extension of his deadline for filing a notice of appeal. Plaintiff’s
 18 Motion for Leave to File Late Notice of Appeal, filed on September 6, 2023, is untimely
 19 under Rule 4(a)(5)(A). Accordingly, the Court cannot grant Plaintiff’s Motion.¹

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 27 ¹ Rule 4(a)(6) of the Federal Rules of Appellate Procedure allows a district court to
 28 reopen the time to file an appeal if a party did not receive notice of the entry of the
 judgment or order sought to be appealed, and if certain other conditions are satisfied.
 That rule is inapplicable here, because Plaintiff does not contend that he failed to receive
 notice of the entry of judgment.

1 **IT IS ORDERED** that Plaintiff Claudius Murray's Motion for Leave to File Late
2 Notice of Appeal (Doc. 42) is **denied**.

3 Dated this 27th day of September, 2023.

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9 Honorable Rosemary Márquez
10 United States District Judge
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